

Bill No. SB 1478

Barcode 112630

597-1811A-05

Proposed Committee Substitute by the Committee on Banking and  
Insurance

1                               A bill to be entitled  
2           An act relating to public records and meetings;  
3           creating s. 627.06292, F.S.; exempting from  
4           public-records requirements reports of  
5           hurricane loss and exposure data which are  
6           specific to an insurance company and reported  
7           by insurers or rating organizations to the  
8           Office of Insurance Regulation or to a state  
9           university for purposes of developing a public  
10          hurricane loss projection model; providing for  
11          future legislative review and repeal under the  
12          Open Government Sunset Review Act; providing  
13          findings of public necessity; amending s.  
14          627.0628, F.S.; exempting from public-records  
15          and public-meetings requirements trade secrets  
16          used in designing and constructing a hurricane  
17          loss model, which information is provided to  
18          the Florida Commission on Hurricane Loss  
19          Projection Methodology, the Office of Insurance  
20          Regulation, or the consumer advocate; providing  
21          for future legislative review and repeal under  
22          the Open Government Sunset Review Act;  
23          providing findings of public necessity;  
24          providing contingent effective dates.

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26 Be It Enacted by the Legislature of the State of Florida:

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28           Section 1. Section 627.06292, Florida Statutes, is  
29 created to read:

30           627.06292 Reports of hurricane loss data and  
31 associated exposure data; public records exemption.--



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(1) Reports of hurricane loss data and associated exposure data which are specific to a particular insurance company, as reported by an insurer or a licensed rating organization to the office or to a type I center at a state university for the public hurricane model pursuant to s. 627.06291, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(2) This exemption does not apply to:

(a) Reports of loss or exposure data that are aggregated for all insurers by the office or the type I center at a state university; or

(b) Loss reports for the 2004 hurricanes which are required to be filed with the office pursuant to order by the office, or to such similar reports as may be required for future hurricanes.

(3) This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds and declares that it is a public necessity to make reports of hurricane loss data and associated exposure data which are specific to a particular insurance company exempt from section 119.07(1), Florida Statutes, and Section 24(a), Article I of the State Constitution in order that proprietary business information of an insurer be protected. The Legislature finds that revealing such information would reveal marketing strategies of an insurer and could substantially harm insurers in the insurance market by giving competitor insurers an unfair economic advantage. Loss exposure data of an insurer includes the type and location of properties insured by an insurer and this

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information is of value to an insurer and would provide a competitive advantage if disclosed to another insurer. Information concerning the hurricane losses that are paid by an insurer for specific types and locations of homes is proprietary in nature and could also promote litigation and result in direct economic harm to the insurer.

Section 3. Paragraph (e) is added to subsection (3) of section 627.0628, Florida Statutes, to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology.--

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

(e)1. A trade secret, as defined in s. 812.081, which is used in designing and constructing a hurricane loss model and which is provided pursuant to this section by a private company to the commission, office, or consumer advocate appointed pursuant to s. 627.0613, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. That portion of a meeting of the commission or of a rate proceeding on an insurer's rate filing at which a trade secret made confidential and exempt by this paragraph is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

3. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. The Legislature finds that it is a public necessity that a trade secret, as defined in section 812.081, Florida Statutes, that is used in the design and construction of a hurricane loss model, and that is provided pursuant to law by a private company to the Commission on Hurricane Loss

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1 Projection Methodology, the Office of Insurance Regulation, or  
 2 an appointed consumer advocate be made confidential and exempt  
 3 from public-records requirements and be made exempt from  
 4 public-meetings requirements. Disclosing trade secrets would  
 5 negatively impact the business interests of a private company  
 6 that has invested substantial economic resources in developing  
 7 the model, and competitor companies would gain an unfair  
 8 competitive advantage if provided access to such information.  
 9 Reliable projections of hurricane losses are necessary in  
 10 order to ensure that rates for residential property insurance  
 11 meet the statutory requirement that rates be neither excessive  
 12 or inadequate. This goal is served by enabling the Commission  
 13 on Hurricane Loss Projection Methodology, the Office of  
 14 Insurance Regulation, and the consumer advocate appointed  
 15 pursuant to section 627.0613, Florida Statutes, to have access  
 16 to all aspects of hurricane loss models, and encouraging  
 17 private companies to submit such models to the commission,  
 18 office, and consumer advocate for review without concern that  
 19 proprietary information or trade secrets will be disclosed. In  
 20 addition, without protecting such information during meetings  
 21 or proceedings at which the information is discussed,  
 22 competitors and other persons could attend those meetings and  
 23 discover the proprietary information or trade secrets.

24       Section 5. Sections 1 and 2 of this act shall take  
 25 effect on the same date that CS for Senate Bill 1488 or  
 26 similar legislation takes effect requiring insurers to report  
 27 hurricane loss and exposure data to the Office of Insurance  
 28 Regulation or to a public university for developing a  
 29 hurricane loss model, if such legislation is adopted in the  
 30 same legislative session or an extension thereof and becomes  
 31 law, and sections 3 and 4 of this act shall take effect on the

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1 same date that CS for Senate Bill 1488 or similar legislation  
 2 takes effect, providing for the Office of Insurance Regulation  
 3 and the consumer advocate appointed pursuant to section  
 4 627.0613, Florida Statutes, to have access to assumptions used  
 5 in privately owned hurricane loss models, if such legislation  
 6 is adopted in the same legislative session or an extension  
 7 thereof and becomes law.

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